

First Account Current and Report of Trustee; Petition for Allowance of Compensation to Trustee and Attorney

			PUBLIC GUARDIAN , Trustee, is petitioner.	NEEDS/PROBLEMS/COMMENTS: Note: If the petition is granted, status hearings will be set as follows: <ul style="list-style-type: none"> Friday, November 9, 2015 at 9:00 a.m. in Department 303, for the filing of the second account. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.
			Account period: 6/11/12 – 6/10/13	
Cont. from			Accounting - \$42,297.32	
	Aff.Sub.Wit.		Beginning POH - \$0	
✓	Verified		Ending POH - \$38,363.32	
	Inventory		Trustee - \$1,115.00	
	PTC		(7.27 Deputy hours @ \$96/hr and 5.5 Staff hours @ \$76/hr)	
	Not.Cred.			
✓	Notice of Hrg		Attorney - \$1,250.00	
✓	Aff.Mail	W/	(per Local Rule for conservatorships)	
	Aff.Pub.		Bond fee - \$95.91	
	Sp.Ntc.		(o.k.)	
	Pers.Serv.		Petitioner prays for an Order:	
	Conf. Screen		1. Approving, allowing and settling the first account.	
	Letters		2. Authorizing the trustee and attorney fees and commissions	
	Duties/Supp		3. Payment of the bond fee	
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Reviewed by: KT
Reviewed on: 9/3/2013
Updates:
Recommendation:
File 1 – McCrain

2A The Cenci Family Trust (Trust)**Case No. 10CEPR00244****Atty Denning, Stephen M. (for Richard G. Cenci – Petitioner)****Atty Sullivan, Robert L (for Bruce D. Bickel – Trustee)****Atty Tekunoff, Daniel J. (for Maike Cenci, Spouse of Respondent Herman Cenci)****Atty Motsenbocker, Gary L (for Terese Cenci McGee)****Amended Petition to Enforce Judgment Against Trust Beneficiaries [Prob. C. 17000, et seq.]**

	Aff.Sub.Wit.	
	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

NEEDS/PROBLEMS/COMMENTS:	
Note: Examiner Notes are not provided for this matter; however, the following history is provided:	
Minute Order 6-25-13 (hearing on Richard G. Cenci's original petition): No distribution until Further order of Court. Mr. Sullivan clarifies a clerical error in objection filed. He referenced PC 15306 and it should be referenced to PC 15306.5. All objections and any additional pleadings need to be filed by 8/19/13. Mr. Sullivan will file accounting by 7/25/13 and will be set on 9/9/13 @ 10am. Accounting and this Petition to be heard together.	
Note: On 8-19-13, Richard G. Cenci filed an Amended Petition, which effectively took the continued date for the original petition off calendar; however, the amended petition assigned the same hearing date of 9-9-13 and placed on the 9am calendar at filing. However, the Court may wish to address this amended petition as scheduled at 10:00 rather than on the regular 9:00 calendar.	
Reviewed by: skc	
Reviewed on: 9-3-13	
Updates:	
Recommendation:	
File 2A – Cenci	

2A

Notice of Motion and Motion for Earnings Withholding Order on Spouse's Community Property Wages

		<p>RICHARD G. CENCI, Trustee of the Herman R. Cenci Family (Bypass) Trust, is Petitioner and Judgment Creditor.</p> <p>Petitioner states Defendant Herman Francis Cenci and Maike Cenci were married at the time of the judgment; therefore, Maike Cenci is also liable for this debt. Although there is no decided case under California Law, every treatise and commentary on the Enforcement of Judgments Law (EJL) <i>[cites provided]</i> concur: Community property is liable for the judgment, and the wages of the non-debtor spouse are reached by this same noticed motion procedure. The earnings of both spouses during marriage are community property.</p> <p>Petitioner states it is important to keep in mind what is actually being sought by a motion for court order for an earnings withholding order on the wages of a non-debtor spouse. The aim is not to make the spouse a judgment debtor; the aim is to apply a particular form of community property to the judgment.</p> <p>Petitioner and Attorney Denning cite and discuss various authority for this motion. See Memorandum and Declaration in Support.</p> <p>Declaration of Maike Cenci in Opposition to Motion for Earnings Withholding Order on Spouse's Community Property Wages; and Memorandum of Points and Authority in Opposition to Motion for Earnings Withholding Order on Spouse's Community Property Wages were filed 6-24-13 by Maike Cenci.</p> <p>Maike Cenci states the address on Bay View Drive in Manhattan Beach, CA, has not been her or her husband's address since Feb. 2010. A PO Box in Manhattan Beach is provided as a mailing address, and Mrs. Cenci states that some relatives have been aware that they moved and had a new mailing address.</p> <p>Maike Cenci states it is her understanding that papers have been filed with the Court seeking to withhold her wages. She never received service of such papers. In mid-June, her sister-in-law Teres Ann Cenci McGee, forwarded her a copy of the motion, but it was blank where the hearing date should be. She has never been provided with any other documents in this legal proceeding.</p> <p>Because she has not had enough time to prepare for hearing and has not received proper notice and service, Mrs. Cenci asks the Court to deny the motion and require the paperwork to be properly served and noticed.</p> <p>See Memorandum of Points and Authorities.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> Examiner Notes are not updated for this matter.</p>	
Cont. from 062513				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
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<input type="checkbox"/>	Aff.Pub.			
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<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
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<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			

**First and Final Account and Report of Trustee and Petition for Its Settlement;
Petition for Instructions Regarding Final Distribution of the Trust Estate [Prob. C.
17200 & 16062]**

			BRUCE D. BICKEL , Trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: Currently under review.
	Aff.Sub.Wit.			
	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
			Reviewed by: skc	
			Reviewed on: 9-3-13	
			Updates:	
			Recommendation:	
			File 2D – Cenci	

Age: 3 years		TERESA LYNN HANNON , Guardian, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 5/17/12 – 5/31/13	<p>Note: If the petition is granted, a status hearing will be set as follows:</p> <ul style="list-style-type: none"> Friday, July 24, 2015 at 9:00 a.m. in Department 303, for the filing of the second account. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.</p>
Cont. from		Accounting - \$117,293.97	
<input type="checkbox"/>	Aff.Sub.Wit.	Beginning - \$112,652.08	
<input checked="" type="checkbox"/>	Verified	Ending POH - \$117,268.97	
<input type="checkbox"/>	Inventory	Guardian - waives	
<input type="checkbox"/>	PTC	Attorney - waives	
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	Petitioner prays for an order:	
<input type="checkbox"/>	Aff.Pub.	1. That the Court make an order approving, allowing and settling the first account of guardian as filed.	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: KT
			Reviewed on: 9/4/2013
			Updates:
			Recommendation:
			File 3 – Hannon

Age: 6 years			<p>TERESA LYNN HANNON, Guardian, is petitioner.</p> <p>Account period: 5/17/12 – 5/31/13</p> <table> <tr> <td>Accounting</td> <td>-</td> <td>\$117,293.97</td> </tr> <tr> <td>Beginning</td> <td>-</td> <td>\$112,652.08</td> </tr> <tr> <td>Ending POH</td> <td>-</td> <td>\$117,268.97</td> </tr> </table> <p>Guardian - waives</p> <p>Attorney - waives</p> <p>Petitioner prays for an order:</p> <p>2. That the Court make an order approving, allowing and settling the first account of guardian as filed.</p>	Accounting	-	\$117,293.97	Beginning	-	\$112,652.08	Ending POH	-	\$117,268.97	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: If the petition is granted, a status hearing will be set as follows:</p> <ul style="list-style-type: none"> Friday, July 24, 2015 at 9:00 a.m. in Department 303, for the filing of the second account. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.</p>
Accounting	-	\$117,293.97											
Beginning	-	\$112,652.08											
Ending POH	-	\$117,268.97											
Cont. from													
<input type="checkbox"/>	Aff.Sub.Wit.												
<input checked="" type="checkbox"/>	Verified												
<input type="checkbox"/>	Inventory												
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<input type="checkbox"/>	Citation												
<input type="checkbox"/>	FTB Notice												

Reviewed by: KT
Reviewed on: 9/4/2013
Updates:
Recommendation:
File 4 – Hannon

First Account and Status Report of Joshua David Leong, Administrator

DOD: 02/03/12		JOSHUA DAVID LEONG , Administrator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 06/14/12 – 06/31/13	Note: A Creditor's Claim was filed by the Fresno County Revenue Collections Unit in the amount of \$3,266.67 on 08/09/13.
Cont. from		Accounting - \$204,105.04	
<input type="checkbox"/>	Aff.Sub.Wit.	Beginning POH - \$157,910.04	
<input checked="" type="checkbox"/>	Verified	Ending POH - \$164,897.20	
<input checked="" type="checkbox"/>	Inventory	Administrator - not addressed	
<input checked="" type="checkbox"/>	PTC	Attorney - not addressed	
<input checked="" type="checkbox"/>	Not.Cred.	Costs - not addressed	
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	w/	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters	06/14/12	
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
<input checked="" type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
<input checked="" type="checkbox"/>	FTB Notice	<p>Petitioner states that the creditor's claim of Access Capital Services was rejected on 06/01/13. This claim was not rejected sooner because the Petitioner was communicating with the creditor to discuss the claim with perhaps settle it. Petitioner, prior to receiving letters of administration, had in good faith paid past rent for the decedent's office space, collected the security deposit, transferred possession of the office back to the creditor by relinquishing the keys to the office manager, believing all further obligations of rent were met. Once the unexpected claim was received, administrator made attempts to resolve the claim. The creditor has not brought an action on the claim and there is adequate security for the claim. The estate is solvent. Petitioner states that the estate cannot be distributed until the rejected creditor's claim has been resolved and any other taxes due are paid. Petitioner estimates that an additional three months will be needed.</p> <p>Petitioner prays for an Order:</p> <ol style="list-style-type: none"> 1. Allowing, settling and approving the first account; 2. Confirming and approving all acts and proceedings of the administrator. 	<p>Reviewed by: JF</p> <p>Reviewed on: 09/03/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 5 – Leong</p>

(1) First and Final Report of Executrix and Petition for Its settlement on Waiver of Account and (2) for Allowance of Statutory Fees to Executrix and Attorney for Ordinary Services and (3) for Final Distribution

DOD: 07/23/12		DEBBIE M. KORTE , Executor, is Petitioner.		NEEDS/PROBLEMS/COMMENTS:	
		Accounting is waived.		<p>1. The Petition indicates at Paragraph 16 that the Executor has waived her statutory compensation, however at paragraph 17 the Executor's statutory fee calculation is provided and the prayer requests an order to pay the Executor her ordinary compensation. Need clarification. It is noted that the proposed distribution is with the Executor's fee being paid to her.</p> <p>2. Decedents will leaves her estate to her children who survive her or to the decedents of any deceased child. Decedent's son, Darrell Ray Pat Frantz, died after the decedent on 08/15/12. Petitioner proposed to distribute Darrell's share to Spencer Frantz, however, since he died after the decedent, his share is distributable to Darrell Frantz' estate and cannot be distributed directly to Darrell's heirs without additional documentation/information.</p>	
Cont. from		I & A - \$165,000.00			
Aff.Sub.Wit.		POH - \$17,815.50 (all cash)			
<input checked="" type="checkbox"/>	Verified	Executor - \$5,740.00 or waived?			
<input checked="" type="checkbox"/>	Inventory	Executor costs - \$3,129.43 (for expenses paid for house repairs, PG&E, mortgage payment, insurance, utilities)			
<input checked="" type="checkbox"/>	PTC	Attorney - \$5,740.00 (statutory)			
<input checked="" type="checkbox"/>	Not.Cred.	Costs - \$1,255.00 (filing fees, publication, certified copies)			
<input checked="" type="checkbox"/>	Notice of Hrg	Distribution pursuant to decedent's will, is to:			
<input checked="" type="checkbox"/>	Aff.Mail	w/	Debbie M. Korte - \$478.76	<p>Reviewed by: JF</p> <p>Reviewed on: 09/04/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 6 – Palmer</p>	
	Aff.Pub.		William T. Frantz, III - \$478.77		
	Sp.Ntc.		Heidi M. Frantz - \$478.77		
	Pers.Serv.		Spencer Frantz - \$478.77		
	Conf. Screen				
	Letters	12/04/12			
	Duties/Supp				
	Objections				
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	Status Rpt				
	UCCJEA				
	Citation				
<input checked="" type="checkbox"/>	FTB Notice				

Petition to Remove Trustee, to Appoint Public Administrator as Trustee, and To Compel Trustee to Account

Dale W. Balagno DOD: 3-16-13		JOSEPH BALAGNO , Beneficiary, is Petitioner. Petitioner states: <ul style="list-style-type: none"> • The Revocable Trust of Dale W. Balagno was established via Declaration of Trust dated 3-6-13. The trust corpus consists primarily of bank and investment accounts held with several banking institutions. • The Trustee of the Trust is Nicholas T. Kovacevich and purports to be acting in that capacity. • The beneficiaries are Lori Jo Brown, Linda Sue Balagno, Joseph Dale Balagno (Petitioner), and Mary E. Pond. • Petitioner is informed and believes that the Trustee has conveyed real property, other accounts, and personal property of the trust to Mary E. Pond without accounting, notice or acknowledgment whatsoever to Petitioner and other beneficiaries. Only upon Petitioner's contacting the various banking and investment institutions did Petitioner learn of such. See attached Trust Transfer Deed dated 3-27-13. • Petitioner also believes the trustee has distributed other investment accounts to Ms. Pond or to himself without notice, and/or is concealing the identity of other assets comprising the trust estate. Petitioner is informed and believes that certain accounts have been closed or blocked without notice or accounting to beneficiaries. • Petitioner has asked the trustee for a list of assets; however, he has refused to comply with such request. Petitioner has been forced to freeze various accounts as a result. • Petitioner seeks an order removing the trustee on grounds that he refuses to respond after demands having been made, conveys property without notice or accounting to either Ms. Pond or himself, changes mailing addresses and ownership of various accounts to the name of Ms. Pond, and refuses to correspond or communicate with Petitioner and other beneficiaries. 	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 6-24-13, 7-29-13, 8-13-13 (Settlement Conf), and 8-20-13 (Continued Settlement Conf)</u> Minute Order 6-24-13: Continued to 7-29-13. Minute Order 7-29-13: Mr. Gromis is appearing specially for Nicholas Kovacevich. The Court indicates to the parties that Mr. Kovacevich is not to advise the beneficiaries, but is to act as a trustee only. Parties are directed to return to Court at 10:30 a.m. to engage in settlement discussions. Continued to 9-9-13 at 9:00 a.m.; set on 8-13-13 at 10:00 a.m. for Settlement Conference. Note: These Examiner Notes were originally prepared for the hearings of 6-24-13 and 7-29-13. Trustee Nicholas Kovacevich filed a Declaration on 8-8-13 that states extensive documentation was delivered to Attorney Armo; however, this has not been reviewed by Examiner as it was filed for Settlement Conference. Examiner Notes are not provided for Settlement Conference. Minute Order 8-13-13 (Settlement Conference): Present: David Gromis. Also present in the courtroom are Mr. Armo's clients. The Court is informed that Mr. Armo is out of state, but will be available next week. Continued to 8-20-13. Minute Order 8-20-13: With regard to account #xxx005, the Court orders the Fresno Fire Department Credit Union to provide Mr. Kovacevich, the trustee all bank statements for the period 2013 to the present. Counsel is directed to prepare the order. Set on 9-9-13 for Status Hearing. SEE ADDITIONAL PAGES																																																									
<table border="1"> <tr><td colspan="2">Cont. from 062413, 072913, 081313, 082013</td></tr> <tr><td>Aff.Sub.Wit.</td><td></td></tr> <tr><td>✓ Verified</td><td></td></tr> <tr><td>Inventory</td><td></td></tr> <tr><td>PTC</td><td></td></tr> <tr><td>Not.Cred.</td><td></td></tr> <tr><td>Notice of Hrg</td><td>X</td></tr> <tr><td>Aff.Mail</td><td>X</td></tr> <tr><td>Aff.Pub.</td><td></td></tr> <tr><td>Sp.Ntc.</td><td></td></tr> <tr><td>Pers.Serv.</td><td></td></tr> <tr><td>Conf. Screen</td><td></td></tr> <tr><td>Letters</td><td></td></tr> <tr><td>Duties/Supp</td><td></td></tr> <tr><td>Objections</td><td></td></tr> <tr><td>Video Receipt</td><td></td></tr> <tr><td>CI Report</td><td></td></tr> <tr><td>9202</td><td></td></tr> <tr><td>Order</td><td>X</td></tr> <tr><td>Aff. Posting</td><td></td></tr> <tr><td>Status Rpt</td><td></td></tr> <tr><td>UCCJEA</td><td></td></tr> <tr><td>Citation</td><td></td></tr> <tr><td>FTB Notice</td><td></td></tr> </table>		Cont. from 062413, 072913, 081313, 082013		Aff.Sub.Wit.		✓ Verified		Inventory		PTC		Not.Cred.		Notice of Hrg	X	Aff.Mail	X	Aff.Pub.		Sp.Ntc.		Pers.Serv.		Conf. Screen		Letters		Duties/Supp		Objections		Video Receipt		CI Report		9202		Order	X	Aff. Posting		Status Rpt		UCCJEA		Citation		FTB Notice		<table border="1"> <tr><td>Reviewed by:</td><td>skc</td></tr> <tr><td>Reviewed on:</td><td>9-3-13</td></tr> <tr><td>Updates:</td><td></td></tr> <tr><td>Recommendation:</td><td></td></tr> <tr><td>File</td><td>7A – Balagno</td></tr> </table>	Reviewed by:	skc	Reviewed on:	9-3-13	Updates:		Recommendation:		File	7A – Balagno
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File	7A – Balagno																																																											

SEE ADDITIONAL PAGES

Page 2

Petitioner states a trustee may be removed on petition under §§ 17200, 15642a for breach or other good cause, including hostility. Remedies include compel performance, enjoin trustee from further breach, equitable lien on property. Petitioner believes the trustee is intentionally refusing to communicate so to make further conveyances to Ms. Pond or himself without providing notice or accounting to other beneficiaries.

Petitioner prays for an Order:

1. Removing Nicholas T. Kovacevich as trustee of the Trust of Dale W. Balagno;
2. Ordering Nicholas T. Kovacevich account for his actions as trustee;
3. Appointing the Public Administrator as successor trustee;
4. Ordering Nicholas T. Kovacevich bear his own costs and attorney fees for defense of this action;
5. Ordering Nicholas T. Kovacevich retitle the trust estate property in the name of the trust;
6. For all costs of suit incurred; and
7. For such other and further relief as the Court may deem just and proper.

Petitioner provides various citations for the request.
See Petition and supplemental declaration filed 6-19-13.

NEEDS/PROBLEMS/COMMENTS:**Examiner's Note (Relevant dates/events):**

- DW Balagno created trust on 3-6-13
- DW Balagno DOD 3-16-13
- Letter dated 4-5-13 from Linda Balagno and Lori Brown imposed deadline of 4-11-13 for info
- Letter dated 4-16-13
- Petition filed 5-9-13 (without copy of trust or other relevant information, such as the date of death of the settlor)
- Declaration w/ copy of trust and additional information per Examiner Notes was filed 6-19-13
- Notice of Hearing was mailed on 6-24-13.

Examiner's Note (Trust details):

- DW Balagno created trust on 3-6-13 (10 days prior to his death on 3-16-13)
- It appears the trust was created by an LDA (not an attorney)
- It appears that Mary E. Pond (unknown relation) also created a trust on the same date as petitioner and transferred her property into it.
- Trust names three Successor Trustees: Nicholas T. Kovacevich (a local CPA), Jo Ann Barnes (unknown relation), and Mary E. Pond (unknown relation)
- The Trust itself specifically distributes personal property to DW Balagno's three children and Mary E. Pond equally.
- The Trust Property Schedule defines personal property, and then goes on to state that the real property at 4157 E. Alta in Fresno is "**NOT IN TRUST**" and is held in joint tenancy with Linda Sue Balagno, one of the daughters.

SEE ADDITIONAL PAGES

NEEDS/PROBLEMS/COMMENTS (Continued):

1. The petition states Petitioner has asked the trustee for a list of assets, but the trustee refused to comply with such request. However, this petition to remove the trustee was filed less than 60 days after the death of the settlor.

Petitioner's declaration attaches a copy of a letter from beneficiaries Linda Balagno and Lori Brown (not Petitioner) dated 4-5-13 (3 weeks after the death of the settlor) demanding a list of items by 4-11-13, which gave the new trustee 6 days to comply, only three weeks after becoming successor trustee. Attorney Armo sent another letter on 4-16-13.

Examiner notes that Probate Code § 16061.7(f) allows the trustee 60 days for just the initial notification to beneficiaries of the status of the trust changing to irrevocable, and Probate Code 16061 requires **reasonable** request by beneficiary for information relating to the administration of the trust. Further, Probate Code § 17200(b)(7)(C) allows a petition to be filed under this section if the trustee has failed to account within 60 days of reasonable request.

This petition was filed less than 60 days after the death of the settlor, and it does not appear that the trustee was afforded appropriate time for response before filing. Petitioner's declaration at #9 states that now 60 days have elapsed. **However, this petition still appears to have been filed prematurely. Need authority.**

2. Petitioner states the attached deed **evidences conveyance of trust real property** to Ms. Pond. However, the attached deed is a transfer of unspecified real property from Grantor Mary E. Pond to Mary E. Pond, Trustee of the Mary E. Pond Revocable Trust **dated 3-6-13 (Settlor still alive)**, with no mention of this trust or trustee, and no address specified to clarify for the Court the property that is the subject of this petition.

When Petitioner provided a declaration in response to Examiner Notes for the last hearing, Petitioner explained that the property was originally held in the trust of Dale Balagno, and the attached deed presupposes that title to the subject property was conveyed to Mary Pond previously, without notice to Petitioner or beneficiaries.

However, again, the deed is dated 3-6-13, which is prior to the Settlor's death. If property was transferred to Ms. Pond prior to that date, then the alleged transfer occurred prior to the Settlor's death. Further, the copy of the Trust and Trust Property Schedule provided with the declaration does not appear to reference any real property subject to the trust. Rather, the body of the trust specifically references personal property only, and the Trust Property Schedule specifically states that the Settlor's real property located at 4157 E. Alta in Fresno is **"NOT IN TRUST"** and is **held in joint tenancy with LINDA SUE BALAGNO**.

Examiner notes that the trust itself appears to be a template-type document prepared by a document assistant, rather than an attorney, with a designated spot to list real property, but instead the language added states that the Settlor's real property located at 4157 E. Alta in Fresno is "NOT IN TRUST" and is held in joint tenancy with LINDA SUE BALAGNO.

Therefore, if this petition goes forward, need clarification: What property is Petitioner alleging was an asset of the trust that the successor trustee Nicholas T. Kovacevich improperly transferred to Ms. Pond, and when?

3. Alternate named successor trustee **Jo Ann Barnes** was not served with Notice of Hearing. Need proof of service of Notice of Hearing at least 30 days prior to the hearing on Jo Ann Barnes. Probate Code § 17203(a)(1).

SEE ADDITIONAL PAGES

NEEDS/PROBLEMS/COMMENTS (Continued):

4. Probate Code §15660.5 provides the requirements for appointment of the Public Administrator, including a finding that no other qualified person is willing to act as trustee. Examiner notes that the trust names two alternate successor trustees, Jo Ann Barnes and Mary E. Pond. *Jo Ann Barnes was not served with notice of hearing (see #3 above).* The Court may require clarification in order to make the findings necessary to appoint the Public Administrator.
 5. **If this petition goes forward, need consent to serve from Public Administrator.** Probate Code §15660.5(a)(2)(B). *Note that Probate Code §15660.5(a)(2)(A) allows the Court to appoint the Public Administrator to if the trust is to immediately be distributed according to its terms. However, this does not appear to be the case. Therefore, need consent per Probate Code §15660.5(a)(2)(B).*
-

Atty Kruthers, Heather H., (for Public Guardian)

Atty Walters, Jennifer L., (Court-appointed for Conservatee)

Re-consideration of Medical Powers

Age: 86 years	PUBLIC GUARDIAN was appointed as conservator of the person and estate on 7/25/2013.	NEEDS/PROBLEMS/COMMENTS:
	The initial Petition for Appointment of Conservator requested medical consent powers pursuant to Probate Code §2355. At the time of the hearing on 7/25/2013 a Capacity Declaration had not been filed. The Court granted the Conservatorship Petition without medical consent powers and set this hearing for re-consideration of the medical consent powers.	
Cont. from 082613	Capacity Declaration filed on 8/30/2013 does not support medical consent powers.	
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 9/3/2013
		Updates:
		Recommendation:
		File 8 – Valencia

Atty Fishman, Robert G. and Callister, Jared R. (for Donald J. Kinghorn, Deloris W. Kinghorn, Rachel A. Kinghorn, and Brian A. Kinghorn)

Petition for Order Appointing Trustee, and for Order Approving Modification of Trust Terms

		<p>DONALD J. KINGHORN, DELORIS W. KINGHORN, RACHEL A. KINGHORN, and BRIAN A. KINGHORN, are Petitioners.</p> <p>Petitioners state:</p> <ol style="list-style-type: none"> On 12/18/06, petitioners Donald J. Kinghorn and Deloris W. Kinghorn (collectively "Settlers") executed a declaration of trust with an effective date of December 14, 2006, forming the KINGHORN CHILDREN IRREVOCABLE LIFE INSURANCE TRUST (the "Trust"). The Trust is generally referred to as an "irrevocable life insurance trust" or "ILIT" and is meant to ensure that life insurance proceeds paid on the death of the surviving Settlor are not included in the Settlor's estates for estate tax purposes. The beneficiaries of the Trust are the Settlor's two children and petitioners herein – Rachel A. Kinghorn (age 21) and Brian A. Kinghorn (age 19) (collectively the "Children Beneficiaries"). The Trust designates Calvin M. Dyer as Trustee of the Trust and designates Debora Ozdinski as the Successor Trustee. Mr. Dyer has served as Trustee of the Trust since its execution on 12/18/06. However, by letter dated 05/19/13, Mr. Dyer resigned as Trustee, which resignation was consented to and accepted by the Children Beneficiaries of the Trust. Ms. Ozdinski does not desire to serve as Trustee but has agreed to serve as Trustee on a temporary basis until a successor trustee can be appointed by the Court. Ms. Ozdinski is only agreeing to serve as a temporary Trustee in order to accommodate Petitioners and to ensure that there is no period during which the Trust does not have a functioning trustee. <p>Continued on Page 2</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>	
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			w/
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			

Reviewed by: JF

Reviewed on: 09/04/13

Updates:

Recommendation:

File 9 – Kinghorn

3. Section 5.02 of the Trust provides that upon reaching age 25, the Children Beneficiaries are to serve as Co-Trustees. In addition, section 5.03 provides that if both Mr. Dyer and Ms. Ozdinski are unable to serve or cease serving as trustee, then the Settlers can appoint a "bank" as successor Trustee until such time that the Children Beneficiaries reach age 25.
4. Because of the limited duration of time a bank trustee would serve (approximately four years until Rachel turned 25) and because of the relatively small size of the Trust estate, it has been impossible for the Settlers to find a bank willing to serve as Trustee. As a result, the only option available to the Petitioners is to seek a court order appointing a successor Trustee.
5. Petitioners request that the Court appoint Rachel A. Kinghorn (daughter of Settlers, Age 21, Petitioner herein and beneficiary of the Trust).
6. Petitioners also desire to modify certain sections of Article V, dealing with the designation of trustees so that, in the future, there will be a reduced likelihood of having a vacancy in the office of trustee. Petitioners request that Section 5.01, 5.02 and 5.03 be revoked in their entirety and replaced and that a new Section 5.05 be added.
 - a. In summary, the new Section 5.01 designates Rachel A. Kinghorn as the sole trustee and in the event she ceases to act as trustee then Brian A. Kinghorn shall serve. If both are unable to serve then the last person to serve as trustee shall have the power to appoint a successor trustee.
 - b. In summary, the new Section 5.02 states that when Brian A. Kinghorn reaches age 25, and he so accepts, then he and Rachel A. Kinghorn shall be co-trustees. If either Rachel or Brian dies or ceases to act, then the other shall serve as the sole Trustee. If both are unable to serve then the last person to serve as trustee shall have the power to appoint a successor trustee.
 - c. In summary, the new Section 5.03 states that the Settlers jointly, or any surviving Settlor, has the power to remove a trustee or trustees at any time and appoint a successor trustee.
 - d. Section 5.05 states: "No Trustee Designated or Appointed. In the event that no successor trustee has been designated or appointed as provided throughout this Article V, then all of the adult income beneficiaries of the Trust may unanimously appoint a successor trustee or co-trustee."
7. Petitioners believe that such a modification is justified and beneficial because it will help to reduce the likelihood of having to file court petitions to name and appoint successor trustees of the Trust in the future if the Children Beneficiaries do not serve as trustees.
8. Petitioners (composed of the Settlers and Children Beneficiaries) have brought this petition and believe that no guardian ad litem is needed in this case. The Children Beneficiaries' interests in the Trust and in the subject matter of this Petition are identical to those of the Children Beneficiaries unborn issue and other unascertained beneficiaries are adequately represented by the Children Beneficiaries and no guardian ad litem is needed. Further, the matters requested in this Petition do not change or alter the rights of any contingent beneficiaries as they relate solely to the designation of the Trust's trustees.

Petitioners pray for an Order:

1. Accepting the resignation of Debora Ozdinski as Trustee of the Trust;
2. Approving the appointment of Rachel A. Kinghorn as Trustee of the Trust;
3. Approving the requested modifications of the Trust; and
4. Determining that, with respect to the Petition, the interests of any unborn or unascertained beneficiaries are adequately represented without the appointment of a guardian ad litem.

Harvey N. Spann
DOD: 3-30-95

Gladys M. Spann
DOD: 9-27-12

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Page 2

Petitioner provides explanation of the terms of the amended trust and the directive with regard to the various exempt and non exempt shares, and also provides a declaration in support of the petition from Gerald Lee Tahajian, the Trustors' attorney. Mr. Tahajian explains that the amendments were intended to amend Trust A only, as Trusts B and C were not subject to amendment after Harvey Newell Spann's death. Paragraph H was added to reflect Mrs. Spann's intention that each Trust pay their prorata share of tax so that their grandchildren would benefit. His notes reflect that the provision was discussed in an office conference with Mrs. Spann, Robert Swanton (her CPA and Trustee) and Attorney Tahajian on 1-29-09.

Mr. Tahajian states that Gladys stated she believed that Jack had received a substantial amount during her lifetime and she desired to benefit her granddaughters.

See also Points and Authorities filed concurrently.

Petitioner prays for an order as follows:

1. Determining whether or not **Surviving Trustor Gladys Spann** effectively exercised her general power of appointment over Trust A, and with respect thereto that the following determination be made:

Consistent with the intention of Gladys and giving is effect to the **Directive** that distribution of the principal of Trust A allocated to **Jack Newell Spann** to be held, administered and distributed in trust giving effect to said exercise and that the income as of the death of Gladys with respect to Trust A be distributed outright to Jack;

2. Determining consistent with California Law that the allocation of expenses and taxes (both estate and generation-skipping transfer taxes) among the shares and subtrusts of the **Amended Spann Revocable Living Trust** in recognition of the **Directive**, including whether or not there has been a waiver of reimbursement pursuant to Section 2207A of the Internal Revenue Code and authorizing payments by the Trustee in accordance with such order; and with respect there that the following determination be made:

(A) That the estate taxes applicable to Trust C (exempt and non-GST exempt portions of Trust C) arising on the death of **Gladys** shall be charged and paid from the non-GST exempt part of Trust C without reimbursement and that the right of reimbursement has been effectively waived under the terms and conditions of the **Amended Spann Revocable Living Trust** and the **Directive**; and that the Trustee pay estate taxes accordingly.

(B) That the GST taxes applicable to a trust that gives rise to GST tax, if any, shall be paid to and charged against said trust; and, that GST taxes, if any, be paid by the Trustee accordingly.

(C) That the administrative expenses of Trust B and Trust C are allocated to Trust A as a contribution by **Gladys** and the Trustee is authorized to make said payments; and

3. Such further orders as the Court considers proper.

Petition for Letters of Administration; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 11/03/1973		RUBY VARGAS , daughter, is petitioner and requests appointment as Administrator with bond set at \$2,000.00. Full IAEA – o.k. Decedent died intestate. Residence: Reedley Publication: Selma Enterprise	NEEDS/PROBLEMS/COMMENTS: 1. Petition indicates that the fair market value of the real property is \$10,000.00. Therefore bond should be set at \$10,000.00. Note: The Court may question if \$10,000 is the 1973 (date of death) value of the property or the current fair market value. Bond should be set at the current fair market value. Note: If the petition is granted, status hearings will be set as follows: <ul style="list-style-type: none"> Friday, October 11, 2013 at 9:00 a.m. in Department 303, for the filing of the bond. Friday, February 14, 2014 at 9:00 a.m. in Department 303, for the filing of the inventory and appraisal. Friday, November 14, 2014 at 9:00 a.m. in Department 303, for the filing of the first account or petition for final distribution. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.
Cont. from			
<input type="checkbox"/> Aff.Sub.Wit.			
<input checked="" type="checkbox"/> Verified			
<input type="checkbox"/> Inventory			
<input type="checkbox"/> PTC			
<input type="checkbox"/> Not.Cred.			
<input checked="" type="checkbox"/> Notice of Hrg			
<input checked="" type="checkbox"/> Aff.Mail	w/o		
<input checked="" type="checkbox"/> Aff.Pub.			
Sp.Ntc.		Estimated value of the Estate: Real property - \$10,000.00 Probate Referee: Rick Smith	
Pers.Serv.			
Conf. Screen			
<input checked="" type="checkbox"/> Letters			
<input checked="" type="checkbox"/> Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
<input checked="" type="checkbox"/> Order			
Aff. Posting		Reviewed by: LV /KT Reviewed on: 09/05/2013 Updates: Recommendation: File 11 - Hamilton	
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Petition for Letters of Administration; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 7/18/2010		SHAWN SMITH , Nephew, is petitioner and requests appointment as Administrator with bond set at \$60,000.00. Full IAEA – o.k. Decedent died intestate. Residence: Firebaugh Publication: Fresno Business Journal Estimated value of the Estate: Real property - \$60,000.00 Probate Referee: Rick Smith	NEEDS/PROBLEMS/COMMENTS: 1. #6 of the Petition was not answered re: Next of Kin. 2. #8 of the petition lists several persons as deceased. Local Rule 7.1.1D requires the date of death to be included in the petition. <u>Note:</u> If the petition is granted, status hearings will be set as follows: <ul style="list-style-type: none"> Friday, October 11, 2013 at 9:00 a.m. in Department 303, for the filing of the bond. Friday, February 14, 2014 at 9:00 a.m. in Department 303, for the filing of the inventory and appraisal. Friday, November 14, 2014 at 9:00 a.m. in Department 303, for the filing of the first account or petition for final distribution. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail W/		
<input checked="" type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Reviewed by: KT

Reviewed on: 9/5/2013

Updates:

Recommendation:

File 12 – Wardlaw

Status Hearing Re: Filing of the Inventory and Appraisal

Age:			NEEDS/PROBLEMS/COMMENTS:
DOD:			
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			<p><u>OFF CALENDAR</u></p> <p>First and Final Account filed 8-27-13 is set for hearing on 10-2-13</p>
			Reviewed by: skc
			Reviewed on: 9-4-13
			Updates:
			Recommendation:
			File 13 – Cross

Status Hearing

Age:			NEEDS/PROBLEMS/COMMENTS:
DOD:			
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			CONTINUED TO 11/22/13 Per note in the file
			Reviewed by: JF
			Reviewed on: 09/04/13
			Updates:
			Recommendation:
			File 14 – Ybarra

Status Report from Public Guardian

15

Age: 15 years		ELBA VALENZUELA , sister, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		ELBA VALENZUELA was appointed guardian on 10/10/12.	1. Need Notice of Hearing. 2. Need proof of service of the Notice of Hearing or Declaration of Due Diligence on: a. Mario Cruz (father) b. Jaileen Cruz (minor) c. Paternal grandparents d. Maternal grandparents
Cont. from		Father: UNKNOWN (listed as Mario Cruz on the initial petition for guardianship)	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory	Mother: LEOVIGILA CRUZ – consents and waives notice.	
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.	Paternal grandparents: Not listed Maternal grandparents: Not listed	
<input type="checkbox"/>	Notice of Hrg	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	Aff.Mail	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input checked="" type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: KT
			Reviewed on: 9/5/2013
			Updates:
			Recommendation:
			File 16 – Cruz

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 9 years		<u>TEMPORARY EXPIRES ON 9/9/2013</u>		NEEDS/PROBLEMS/COMMENTS:	
		ANTONIO GARCIA , step-father, is petitioner.		1. Need proof of service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on: a. Natalia Sosa (paternal grandmother)	
		Father: JUVENTINO CHAVEZ – consents and waives notice.			
		Mother: JULIA PATRICIA RAMIREZ – personally served on 8/13/13.			
Cont. from		Paternal Grandfather: Pablo Castro - Deceased			
	Aff.Sub.Wit.		Paternal Grandmother: Natalia Sosa		
✓	Verified		Maternal Grandfather: Peter Ramirez - Deceased		
	Inventory		Maternal Grandmother: Maria Morales – Declaration of Due Diligence filed on 9/3/2013.		
	PTC				
	Not.Cred.				
	Notice of Hrg	X			
	Aff.Mail	X			
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.	X	Petitioner states: the mother has issues with drugs and alcohol and is physically abusive towards the child. The father is not stable with no legal residency. Petitioner states the child has been in his care since she was two years old.		
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections		Court Investigator Charlotte Bien's Report filed on 8/29/2013.		
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: KT	
				Reviewed on: 9/5/2013	
				Updates:	
				Recommendation:	
				File 17 – Ramirez	

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 4		NO TEMPORARY IN PLACE; TEMPORARY DENIED ON 07/22/13		NEEDS/PROBLEMS/COMMENTS:	
		ANNA L. RYAN , maternal grandmother, is Petitioner.		1. Need <i>Notice of Hearing</i> .	
		Father: CURTIS W. RUBY		2. Need proof of personal service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Guardianship</i> <u>or</u> Declaration of Due Diligence <u>or</u> Consent & Waiver of Notice for:	
Cont. from		Mother: CHRISTAL RUBY – <i>Declaration of Due Diligence filed 08/01/13</i>		- Curtis W. Ruby (Proof of service filed 08/01/13 indicates that he was served with a copy of the Petition for Appointment of Temporary Guardianship not the general guardianship. The proof of service is not on the Judicial Council form attached to the Notice of Hearing therefore it is unknown what date Notice of Hearing was served.)	
<input type="checkbox"/>	Aff.Sub.Wit.			- Christal Ruby (Declaration of Due Diligence filed 08/01/13 indicates that Christal was provided the hearing date and time by text message, but will not disclose her residence address to Petitioner in order to have her personally served.)	
<input checked="" type="checkbox"/>	Verified	Paternal grandfather: STEVEN RUBY – <i>Declaration of Due Diligence filed 08/01/13</i>		3. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Guardianship</i> <u>or</u> Declaration of Due Diligence <u>or</u> Consent & Waiver of Notice for:	
<input type="checkbox"/>	Inventory	Paternal grandmother: TAMMY EWALD		- Steven Ruby (paternal grandfather)	
<input type="checkbox"/>	PTC	Maternal grandfather: PATRICK RYAN		- Tammy Ewald (paternal grandmother)	
<input type="checkbox"/>	Not.Cred.	Sibling: MYSTEYA RUBY (6)		- Patrick Ryan (maternal grandfather)	
<input type="checkbox"/>	Notice of Hrg	Petitioner alleges that the parents are using heroin in the minor's presence and neglect him. Petitioner states that she has guardianship of the minor's older sister. Petitioner states that guardianship of the minor is necessary to ensure the safety and well-being of the minor.			
<input checked="" type="checkbox"/>	Aff.Mail				
<input type="checkbox"/>	Aff.Pub.				
<input type="checkbox"/>	Sp.Ntc.				
<input type="checkbox"/>	Pers.Serv.				
<input checked="" type="checkbox"/>	Conf. Screen				
<input type="checkbox"/>	Letters				
<input checked="" type="checkbox"/>	Duties/Supp				
<input type="checkbox"/>	Objections				
<input type="checkbox"/>	Video Receipt				
<input checked="" type="checkbox"/>	CI Report				
<input type="checkbox"/>	9202				
<input type="checkbox"/>	Order	Court Investigator Jennifer Daniel filed a report on 08/30/13.			
<input type="checkbox"/>	Aff. Posting			Reviewed by: JF	
<input type="checkbox"/>	Status Rpt			Reviewed on: 09/05/13	
<input checked="" type="checkbox"/>	UCCJEA			Updates:	
<input type="checkbox"/>	Citation			Recommendation:	
<input type="checkbox"/>	FTB Notice			File 18 – Ruby	

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 7		<u>TEMPORARY EXPIRES 09/09/13</u>		NEEDS/PROBLEMS/COMMENTS:	
		SUZANNE ARIAS , maternal grandmother, is Petitioner.		<p>4. Declaration of Due Diligence filed 07/22/13 states that the paternal grandfather's whereabouts are unknown and that he has never been involved in his son's or grandson's life. If diligence is not found, need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of the <i>Petition for Guardianship</i> <u>or</u> Consent & Waiver of Notice for:</p> <ul style="list-style-type: none"> - Pete Emery (paternal grandfather) 	
		Father: JUSTIN EMERY – Personally served on 07/15/13			
Cont. from		Mother: DESIREE PEREZ – Consent & Waiver of Notice filed 07/08/13			
<input type="checkbox"/>	Aff.Sub.Wit.				
<input checked="" type="checkbox"/>	Verified				
<input type="checkbox"/>	Inventory				
<input type="checkbox"/>	PTC				
<input type="checkbox"/>	Not.Cred.				
<input checked="" type="checkbox"/>	Notice of Hrg				
<input checked="" type="checkbox"/>	Aff.Mail	w/			
<input type="checkbox"/>	Aff.Pub.				
<input type="checkbox"/>	Sp.Ntc.				
<input checked="" type="checkbox"/>	Pers.Serv.				
<input checked="" type="checkbox"/>	Conf. Screen				
<input checked="" type="checkbox"/>	Letters				
<input checked="" type="checkbox"/>	Duties/Supp				
<input type="checkbox"/>	Objections				
<input type="checkbox"/>	Video Receipt				
<input checked="" type="checkbox"/>	CI Report				
<input type="checkbox"/>	9202				
<input checked="" type="checkbox"/>	Order				
<input type="checkbox"/>	Aff. Posting				
<input type="checkbox"/>	Status Rpt				
<input checked="" type="checkbox"/>	UCCJEA				
<input type="checkbox"/>	Citation				
<input type="checkbox"/>	FTB Notice				
		<p>Paternal grandfather: PETE EMERY – Declaration of Due Diligence filed 07/22/13</p> <p>Paternal grandmother: KIM LIBBE – Served by mail on 07/15/13</p> <p>Maternal grandfather: MICHAEL PEREZ – Served by mail on 07/15/13</p> <p>Petitioner alleges that the mother abuses drugs and has given Petitioner permission to keep the minor in her care. The father is absent and has only seen the minor 1 time this year.</p> <p>Court Investigator Charlotte Bien filed a report on 08/26/13.</p>			
				<p>Reviewed by: JF</p> <p>Reviewed on: 09/05/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 19 – Emery</p>	

Atty Xiong-Vang, Jamie (for Pa Ying Moua and Miles Madrid Temporary Guardians/sister and sister's fiancé)

Atty Hopper, Cindy J (for Petitioners/parents Kong Peng Vang and Helene Tcha)
Motion to Set Aside Temporary Orders

Elijah age: 16	<p>KONG PENG VANG, father, and HELENE TCHA, mother, are petitioners.</p> <p>PA YING MOUA, half-sister, and MILES MADRID, sister's fiancé, were appointed temporary guardians on 8/22/2013.</p> <p>In their temporary petition, Pa Ying Moua and Miles Madrid alleged: the minor's parents had not only been physically and emotionally abusive towards the minors, but had abandoned them in the country of Thailand. Petitioners stated they felt the minors were in danger of physical and emotional harm if they continue under the care of their parents.</p> <p>Petitioners state this motion is brought on the grounds that Pa Ying Moua and Miles Madrid lied to this Court and committed perjury in order for the temporary to be granted. Furthermore, based on the fact that the Petitioners failed to serve the parents of the minor children they were unable to attend and appear in Court.</p> <p>Petitioners state the children were born in the United States and have lived with them continuously. They are permanent residents of the U.S. In 2012 and 2013 they formed two corporations in the country of Thailand in the industry of cosmetics and computers. They are partners in another corporation in Thailand.</p> <p style="text-align: center;">Please see additional page</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Order Shortening Time for the Court to hear the Motion to Set Aside the Temporary Guardianship ordered the Motion to be served no later than September 3, 2013 with responses filed no later than September 6, 2013.</p> <p>1. Need proof of service of the Motion to Set Aside the Temporary Guardianship and supporting documents on:</p> <ul style="list-style-type: none"> a. Pa Ying Moua (temporary guardian) b. Miles Madrid (temporary guardian) c. Jamie Xiong-Vang (attorney for temporary guardians) 	
Lexie age: 15			
Madison age: 7			
Cont. from			
<input type="checkbox"/> Aff.Sub.Wit.			
<input checked="" type="checkbox"/> Verified			
<input type="checkbox"/> Inventory			
<input type="checkbox"/> PTC			
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<input type="checkbox"/> Notice of Hrg			X
<input type="checkbox"/> Aff.Mail			X
<input type="checkbox"/> Aff.Pub.			
<input type="checkbox"/> Sp.Ntc.			
<input type="checkbox"/> Pers.Serv.			
<input type="checkbox"/> Conf. Screen			
<input type="checkbox"/> Letters			
<input type="checkbox"/> Duties/Supp			
<input type="checkbox"/> Objections			
<input type="checkbox"/> Video Receipt			
<input type="checkbox"/> CI Report			
<input type="checkbox"/> 9202			
<input checked="" type="checkbox"/> Order			
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			

Reviewed by: KT
Reviewed on: 9/4/2013
Updates:
Recommendation:
File 20 – Vang

Petitioners state after accessing the opportunities in Thailand ad decision was made as a family in order to better their finances and circumstances to move to Thailand. Prior to the move they placed their residence located in Fresno for sale. The residence had not sold when they left. They moved to Thailand on June 16, 2013. They left Thailand on July 17, 2013 to return to the U.S. to complete the sale of their residence and other financial matters before returning to Thailand. The intent when they left Thailand was to return by September 2, 2013. The children were left with Peng (father) cousin's husband. He is not a stranger. The children met him when he came to California in December 2012.

Upon returning to California it came to their attention that their house was not going to close escrow as fast as they thought and their other business dealings were taking longer than expected. Since they didn't know how long everything would take they brought the children back to California on 8/23/2013. Upon their return to the U.S. they were removed from the customs area at LAX based on the Petitioners' orders and letters issued by the court.

Pa Ying states in her petition that the parents have been physically and emotionally abusive towards the children and that they were abandoned in Thailand. This is not true. She states there is a history of CPS investigations and both have criminal records for neglect and abuse. This is not true. What is true is that there have been several calls to CPS all of which were made by Pa Ying. A social worker came to the home and found the allegations unfounded.

Pa Ying filed a supplemental declaration attaching text messages between Pa Ying and Lexie as well as photographs of Lexie in a towel. One of the businesses in Thailand is a spa. Lexie has a fair complexion and they wanted to use her as a model. The business is family owned and Lexie was helping with the business. Petitioners state they did not force Lexie to model but rather she willingly agreed. These pictures were not used in their advertising but were test pictures.

Pa Ying also states in her supplemental declaration that that she was requesting orders to permit her to travel to Thailand to retrieve the children. What Pa Ying did not inform the court is that she knew the children were already returning home and that they would return on 8/23/2013, one day after the hearing.

It is Petitioner's belief that Pa Ying is upset that the family is moving to Thailand. Pa Ying failed to give Petitioners notice of the hearing on 8/22/2013. Petitioners state they returned home on 7/17/2013 to their home listed in Pa Ying's petition. Pa Ying knew of their whereabouts. Petitioners state they believe that Pa Ying intentionally failed to serve them as she committed perjury in her Petition.

Petitioners request the Court set aside the Order Appointing Temporary Guardian and Letters of Temporary Guardianship filed 8/22/2013 and that the children be returned to their care.

Points and Authorities in Support of Motion to Set Aside Temporary Guardianship.

Atty Garcia, Melinda (pro per Petitioner/maternal grandmother)

Atty Garcia, Jorge (pro per Petitioner/maternal step-grandfather)

Petition for Appointment of Temporary Guardian of the Person

Age: 3 years		<u>GENERAL HEARING 10/28/2013</u>		NEEDS/PROBLEMS/COMMENTS:		
		<p>MELINDA GARCIA, maternal grandmother and JORGE GARCIA, maternal step-grandfather, are petitioners.</p> <p>Father: JOSE GARCIA</p> <p>Mother: JULISSA GARCIA</p> <p>Paternal grandfather: Eleazar Garcia Morales</p> <p>Paternal grandmother: Sandra Luz Gutierrez</p> <p>Maternal grandfather: Dino Perales</p> <p>Petitioners state the mother of the child is never home to care for her. She goes out and either leaves the child or takes her with her. One time she was at the emergency waiting room and the minor had no diaper on. Mom was reported to CPS and as a result the child was placed in petitioner's care. Temporary guardianship is needed so that Petitioner can take the minor to her medical appointments.</p>		<p>1. Need Notice of Hearing.</p> <p>2. Need proof of personal service of the Notice of Hearing along with a copy of the Temporary Petition or Consent and Waiver of Notice or Declaration of Due Diligence on:</p> <p>a. Jose Garcia (father)</p> <p>b. Julissa Garcia (mother)</p>		
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<input type="checkbox"/>	CI Report					
<input type="checkbox"/>	9202					
<input checked="" type="checkbox"/>	Order					
<input type="checkbox"/>	Aff. Posting					
<input type="checkbox"/>	Status Rpt					
<input checked="" type="checkbox"/>	UCCJEA					
<input type="checkbox"/>	Citation					
<input type="checkbox"/>	FTB Notice					
		Reviewed by: KT				
		Reviewed on: 9/5/2013				
		Updates:				
		Recommendation:				
		File 21 – Garcia				

22 Carla Alizay Luna, Devon Dushon Murphy, Jr., Jeremaiah Josiah Murphy & Nehemiah Malachi Murphy (GUARD/P) **Case No. 13CEPR00754**

Atty Quintana, Benito Jr. (pro per Petitioner/maternal grandfather)

Atty Quintana, Jennie P. (pro per Petitioner/maternal grandmother)

Petition for Appointment of Temporary Guardian of the Person (Prob. C. 2250)

<table border="1"> <tr><td>Carla age: 11</td></tr> <tr><td>Devon age: 9</td></tr> <tr><td>Jeremaiah age: 7</td></tr> <tr><td>Nehemiah age: 5</td></tr> <tr><td>Cont. from</td></tr> <tr><td>Aff.Sub.Wit.</td></tr> <tr><td>✓ Verified</td></tr> <tr><td>Inventory</td></tr> <tr><td>PTC</td></tr> <tr><td>Not.Cred.</td></tr> <tr><td>✓ Notice of Hrg</td></tr> <tr><td>Aff.Mail</td></tr> <tr><td>Aff.Pub.</td></tr> <tr><td>Sp.Ntc.</td></tr> <tr><td>✓ Pers.Serv.</td></tr> <tr><td>✓ Conf. Screen</td></tr> <tr><td>✓ Letters</td></tr> <tr><td>✓ Duties/Supp</td></tr> <tr><td>Objections</td></tr> <tr><td>Video Receipt</td></tr> <tr><td>CI Report</td></tr> <tr><td>9202</td></tr> <tr><td>✓ Order</td></tr> <tr><td>Aff. Posting</td></tr> <tr><td>Status Rpt</td></tr> <tr><td>✓ UCCJEA</td></tr> <tr><td>Citation</td></tr> <tr><td>FTB Notice</td></tr> </table>	Carla age: 11	Devon age: 9	Jeremaiah age: 7	Nehemiah age: 5	Cont. from	Aff.Sub.Wit.	✓ Verified	Inventory	PTC	Not.Cred.	✓ Notice of Hrg	Aff.Mail	Aff.Pub.	Sp.Ntc.	✓ Pers.Serv.	✓ Conf. Screen	✓ Letters	✓ Duties/Supp	Objections	Video Receipt	CI Report	9202	✓ Order	Aff. Posting	Status Rpt	✓ UCCJEA	Citation	FTB Notice	<p align="center"><u>GENERAL HEARING 10/29/2013</u></p> <p align="center"><u>Temporary Expires 9/9/2013</u></p> <p>BENITO QUINTANA, maternal grandfather and JENNIE QUINTANA, maternal grandmother, are petitioners.</p> <p>Father (Carla): JUAN CARLOS LUNA</p> <p>Father: (Devon, Jeremaiah & Nehemiah): DEVON DUSHON MURPHY</p> <p>Mother: ANITA MARIE QUINTANA – consents and waives notice.</p> <p>Paternal grandfather (Carla): Unknown Paternal grandmother (Carla): Irma Morales Paternal grandfather (Devon, Jeremaiah & Nehemiah): George Murphy Paternal grandmother (Devon, Jeremaiah & Nehemiah): Evette Murphy.</p> <p>Petitioners state Devon Dushon Murphy's (father) date of release is 9/17/2013. He wrote a letter to the children's mother stating he and she should be raising their children. Therefore, they are afraid that upon his release he will try to take the children. The father was very abusive and controlling. He has abuse the children verbally and emotionally and they are afraid of him. Attached to the petition is Team Decision Meeting (TDM) notes from DSS dated 9/14/12 stating allegations of sexual abuse, substance abuse by the parents, domestic violence and home conditions. The TDM indicates it was agreed that the children would remain with the grandparents and the grandparents would petition for guardianship. Also attached to the Petition is a copy of a protective order restraining Devon (father) from contact with Anita (mother) until 9/14/15.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need proof of personal service of the Notice of Hearing along with a copy of the temporary Petitioner or Consent and Waiver of Notice or Declaration of Due Diligence on:</p> <ul style="list-style-type: none"> a. Juan Carlos Luna (Carla's father) b. Devon Dushon Murphy (Devon, Jeremaiah and Nehemiah's father) <p>Reviewed by: KT</p> <p>Reviewed on: 9/5/2013</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 22 – Luna & Murphy</p>
Carla age: 11																														
Devon age: 9																														
Jeremaiah age: 7																														
Nehemiah age: 5																														
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